

In Re: Donald Maurice Bowen and
Ann Gray Bowen,
Debtors

Case No. 15-60067
Chapter 7

MOTION TO VACATE DISCHARGE

Comes now, Debtors Donald Maurice Bowen and Ann Gray Bowen (“Debtors”), through their attorney Larry L. Miller moves this Court to vacate the discharge of Debtors and state as follows:

1. Debtors filed a voluntary petition for relief under Chapter 7 of Title 11 of the United States Code on January 15, 2015, and received a Discharge on April 22, 2015.

2. Debtors intend to convert their Chapter 7 case to a Chapter 13 repayment plan to retain their home.

3. On April 20, 2015, Trustee Stephen Scott (“Trustee”) indicated that he would sell Debtors’ home, which value was based on an unsubstantiated opinion from an auctioneer, who was not a qualified or licensed appraiser. Trustee disregarded both the County Tax Assessment on Debtors Petition Schedule A- Real Estate and the Real Estate Tax Assessment per the county both with a value of \$268,800.00, and Debtors’ Broker’s Price Opinion with a values of \$240,000.00 to \$250,000.00, which shows the house values were much lower than that of Trustee’s auctioneer’s value. Copies of Debtors Petition Schedule A-Real Property and County Tax Assessment are attached hereto as Exhibit A, and a copy of Debtors’ Broker’s Price Opinion is attached hereto as Exhibit B.

4. Under Federal Rule Civil Procedure Rule 59(e), made applicable by Bankruptcy Rule 9023, permits alteration or amendment of a judgment when there has been “a clear error of law, newly discovered evidence, and intervening change in controlling law, or to prevent manifest injustice.” See GenCorp, Inc. v American Int'l Underwriters, 178 F.3d 804,304 (6th Cir. 1999).

5. Here, not vacating the discharge would be a manifest injustice and prejudices Debtors’ rights. The Debtors are 74 and 72 years of age and are in no position to move from their home in which they have lived for the last 10 years.

WHEREFORE, Debtors request that this Court grant their Motion to Vacate Discharge and convert their Chapter 7 case into a Chapter 13 repayment plan, and for such other further relief this court may deem just and proper.

Respectfully submitted,
Donald Maurice Bowen and Ann Gray Bowen

By: /s/ Larry L. Miller
Larry L. Miller
Attorneys for Debtors

Dated: 04/27/2015

/s/ Larry L. Miller
Of Counsel

Larry L. Miller, Esq.
MILLER LAW GROUP, P.C.
1160 Pepsi Place, Suite 341
Charlottesville, VA 22901
Phone (434) 974-9776
Fax (434)974-6773

BANK OF AMERICA
P.O. BOX 982236
EL PASO, TX 79998

BK ALTAVISTA
BROAD & SEVENTH ST
ALTAVISTA, VA 24517

CHASE
PO BOX 15298
WILMINGTON, DE 19850

INTERNAL REVENUE SERVICE
PO BOX 7346
PHILADELPHIA, PA 19101-7346

INTERNAL REVENUE SERVICE
INSOLVENCY UNIT
400 N 8TH ST STE 76
RICHMOND, VA 23219-4836

SUN WEST MORTGAGE COMPANY INC.
18303 GRIDLEY RD
CERRITOS, CA 90703

VIRGINIA DEPARTMENT OF TAXATION
BANKRUPTCY UNIT
PO BOX 2156
RICHMOND, VA 23218-2156

WELLS FARGO BUSINESS CARD
PAYMENT REMITTANCE CENTER
PO BOX 6426
CAROL STREAM, IL 60197

WORLDS FOREMOST BANK N
4800 NW 1ST ST STE 300
LINCOLN, NE 68521